IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

Bail Appl..No. 4342 of 2007()

CRIME NO. 132/07 OF MUNNAR POLICE STATION

PETITIONER

PRAMOD BHASI, AGED 28 YEARS,
S/O. BHASKARAN PILLAI, KEERTHIMANGALAM,
KARAZHAMA, CHENNITHALA, MAVELIKKARA,
ALAPPUZHA.

BY ADV. SRI.C.V.MANUVILSAN
SRI.G.SUDHEER (THURAVOOR)

RESPONDENTS:

STATE OF KERALA, REP. BY
THE S.I. OF POLICE, MANNAR POLICE STATION,
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.P. RAVEENDRA BABU

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4342 of 2007

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Dated this the 18th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioner is the second accused. The crux of the allegations is that on account of prior animosity the accused persons went in a motor cycle in search of the victim. The first accused allegedly got down from the motor cycle and planted a stab injury with a dangerous knife on the vital parts of the victim. After the incident both the accused allegedly sped away from the scene of the crime. In the F.I.R. the petitioner is not named. After the arrest and interrogation of the first accused, the petitioner has been brought on the array of accused. Investigation is in progress. Crime No.132 of 2007 of Mannar Police Station is registered against the petitioner. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner was not available in the vehicle at all. He further points out that there is no overt culpable act even alleged against the petitioner. In these circumstances anticipatory bail may be granted to the petitioner, it is submitted.

3. The learned Prosecutor opposes the application. The available indications point to the complicity of the petitioner. He submits that there are no circumstances justifying the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. in favour of the petitioner.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Prosecutor. I am satisfied that this is not a fit case where the extra ordinary equitable discretion under Section 438 Cr.P.C. can or deserves to be invoked in favour of the petitioner. The petitioner must appear before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is hence dismissed. Needless to say, if the petitioner surrenders before the Investigating Officer or the learned Magistrate having jurisdiction and applies for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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